

Mr. Joseph M. Nee
Public Utilities Engineer
Department of Public Utilities
100 Cambridge Street
Boston, Massachusetts 02202

Dear Mr. Nee:

Your letter of May 5, 1978, requests an interpretation of Section 192.755(a)(5) which reads:

"When an operator has knowledge that the support for a segment of a buried cast iron pipeline is disturbed: (a) That segment of the pipeline must be protected, as necessary, against damage during the disturbance by: ... (5) Other foreseeable outside forces which may subject that segment of the pipeline to bending stress."

This section requires operators to take protective action against any type of outside force (other than forces for which protection is required by paragraphs (a) (1)-(4) which, in light of all surrounding circumstances and facts known to the operator, can reasonably be expected to affect the disturbed cast iron segment by subjecting it to bending stress. You mentioned street resurfacing as an activity which falls within the meaning of Section 192.755(a)(5). Another might be weather damage due to flooding or wind. The types of forces to be considered under this section are those which can be predicted better at the scene than before the pipeline is disturbed.

Your request for this interpretation is the first we have received, and consequently, there has not been a previous interpretation published in the Advisory Bulletin. We do not know whether a State agency has issued its own interpretation.

Your question about the right of OPSO or a State agency to impound pipe involved in an accident is an important one. While there is no express statutory provision providing this right to OPSO, we believe that we are empowered by Sec.12 of the Natural Gas Pipeline Safety Act of 1968 to seize evidence necessary for completing an accident investigation. Since a State agency participating under Sec.5(a) of the Act must certify that it has power similar to that provided by Sec.12, a certified State agency should likewise be able to seize evidence in matters under its jurisdiction when such evidence is not needed by OPSO. The Independent Safety Board Act of 1974 (49 USC 1901 et seq.) grants the National Transportation Safety Board subpoena power to compel testimony and the production of evidence. There is no question as to the right of that agency to impound pipe involved in an accident.

Sincerely,
Cesar DeLeon, Acting Director
Office of Pipeline Safety Operations

May 5, 1978

Mr. Lucian M. Furrow, Chief, Regulations Division
Room 6302B Transpoint Building
2100 2nd Street
Washington, D.C.

Dear Sir:

This Department has had several inquiries by Massachusetts gas distribution companies concerning the interpretation of 192.755, "Protecting Cast Iron Pipelines" and we have some reservations with the word "disturbed" and "disturbance" as they are used in the first sentence of the paragraph.

"When an operator has knowledge that the support for a segment of a buried cast iron pipeline is disturbed:

- (a) That segment of the pipeline must be protected, as necessary, against damage during the disturbance by:
 - (1) Vibrations from heavy construction equipment, trains, trucks, buses, or blasting;
 - (2) Impact forces by vehicles;
 - (3) Earth movement;
 - (4) Apparent future excavations near the pipeline; or
 - (5) Other foreseeable outside forces which may subject that segment of the pipeline to bending stress.
- (b) As soon as feasible, appropriate steps must be taken to provide permanent protection for the disturbed segment from damage that might result from external loads, including compliance with applicable requirements of §§ 192.317(a), 192.319, and 192.361(b)(d).

(a)(5) of Paragraph 192.755 which states "other foreseeable outside forces ..." presumably refers to resurfacing the street and I am unable to determine any other foreseeable outside forces which could cause stress on the cast iron pipe which may have been installed at a shallow depth as all other causes of potential hazard have been referred to in (1) (2) (3) and (4).

It is requested that you please forward an interpretation of this paragraph to the undersigned and notify this office as to whether there has been an interpretation of this section by some other agency which has been circularized in the Advisory Bulletin.

In a recent gas accident which occurred in this state, counsel for the insurance companies representing the gas company refused to allow the pipe alleged to have caused the accident to be impounded by this Department for any investigation we may desire to make to determine the cause. Does the Department of Transportation have any provision which will allow either the Department as OPS agent or the OPS directly to impound either pipe or gas facilities involved in gas accidents or is there any existing Federal legislation which allows the National Transportation Safety Board to impound gas facilities involved in accidents.

Very truly yours,

Joseph M. Nee, P.E.
Public Utilities Engineer